



COMMONWEALTH OF MASSACHUSETTS
**Board of Registration
of
Hazardous Waste Site Cleanup Professionals**

**MINUTES
of
BOARD MEETING**

Held on
Jan. 21, 2009

Meeting Location: Department of Environmental Protection
Central Regional Office
627 Main Street
Worcester, Mass.

Prepared by: A. Fierce

[Approved: March 13, 2009]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 3:05 p.m. The other Board members present were Gail Batchelder, Kirk Franklin, Jack Guswa, Christophe Henry, Robert Luhrs, Gretchen Latowsky, and Debra Stake. Deborah Farnsworth and Kelley Race were absent. The LSP Board staff members present were Allan Fierce, Lynn Read, Brian Quinlan, Ron Viola, Terry Wood, and Al Wyman.
2. **Announcements:** There were no announcements.
3. **Agenda:** The Board members agreed to follow the draft Agenda.
4. **Minutes:** The Board reviewed and offered minor corrections to the draft minutes of the meetings of the Board held on Sept. 18, Oct. 16, and Dec. 18, 2008. **A motion was made and seconded to approve these three sets of minutes as corrected. The motion was approved unanimously.**
5. **Reports from Quasi-Judicial Sessions:** Mr. Fierce requested and received the Board's unanimous consent to publish in the minutes of this meeting the following report from a previous quasi-judicial session of the Board.

Final Order Re: Complaint 06C-07

At a quasi-judicial session held on December 18, 2008, the CRT members for Complaint 06C-07 (Mr. Franklin, Ms. Race, and Ms. Read) presented their CRT Report

summarizing the findings of their preliminary investigation of this Complaint. During this presentation, the LSP's name and other identifying information were not disclosed.

The members of the Board who were present were as follows: Ms. Farnsworth, Mr. Guswa, Mr. Henry, Ms. Latowsky, Mr. Luhrs.

Ms. Batchelder and Ms. Stake were absent, and Ms. Commerford was recused and left the room. The Board's staff was present. No one else was in the room.

At the conclusion of the CRT's presentation, the CRT members and Mr. Wyman, the staff investigator assisting the CRT, left the room.

The five remaining Board members then discussed the CRT's Report. At the conclusion of the discussion, a motion was made and seconded (1) to find that, based on the preliminary investigation, sufficient grounds did not exist to initiate disciplinary action against this LSP and (2) to dismiss this Complaint with a warning. The motion was approved unanimously by a vote of 5-0.

The dismissal letter (with a warning) was sent on January 5, 2009.

Throughout this discussion, the Respondent LSP's name was kept confidential. Now that this matter has been concluded, the LSP's name – Samuel Macintire – is being made public.

6. **Decisions Regarding License Applicants:** The staff announced that there were no Application Dockets to present this month.

7. **License Renewal Applications:**

A. **Renewal Dockets.** The staff presented the following License Renewal Dockets:

Renewal Docket #1

License Renewal

Renewal Date: Jan. 30, 2009

Have met all requirements for renewal.

New Renewal Date: Jan. 30, 2012

- | | |
|----------------------|-------|
| 1. Timothy F. Condon | #2075 |
| 2. Deborah Z. Howell | #2349 |
| 3. Stephen S. Parker | #9867 |
| 4. Stefan C. Sokol | #4003 |
| 5. Kevin D. Trainer | #4879 |

Renewal Docket #2
License Renewal after Expiration
Has met all requirements for renewal
within one year of expiration.
New Renewal Date: Jan. 30, 2012

1. Paul C. Hunt #4270

A motion was made and seconded to renew to licenses of the LSPs on Renewal Dockets #1 and #2 for a three-year period ending on the dates indicated. The motion was approved unanimously.

B. Other Renewal-related Matters. Mr. Fierce reported that no waiver requests had been received since the previous meeting, and there were no other renewal-related matters.

8. Other Licensing-Related Matters:

A. New Panel Assignments and Scheduling. The following Board members were assigned to Application Review Panel #220: Mr. Franklin, Mr. Luhrs, and Ms. Stake.

B. Appeals Status Report. Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.

C. Inactive Status Report. Mr. Fierce reported that the following LSPs have recently returned to Active Status from Inactive Status:

- Maria Pinaud (#9198) returned to Active Status on 9/25/08
- Robert Warren (#7613) returned to Active Status on 10/11/08

D. LSPs Whose Licenses Lapsed for Failure to Renew. Mr. Fierce announced that the following LSPs did not renew their licenses, which then lapsed on the dates indicated:

- (i) On 10/28/08, after a 90-day extension:
 - Andre Bissonette (#9858)
 - Duane Wanty (#7960)
- (ii) On 10/30/08:
 - Brian Woodworth (#8852)

E. Suspended LSP Whose License Expired for Failure to Renew. Mr. Fierce reported that the following LSP's license expired on 10/12/08 when he failed to renew it within one year after 10/12/07. His license had been suspended previously, and renewal within one year of 10/12/07 was a condition he had to meet to obtain license reinstatement:

- Kevin Doherty (#7890)

F. LSPs Whose Licenses were Revoked for Non-Payment of the Annual Fee. Mr. Fierce announced that the licenses of the following LSPs were suspended in June 2008 and revoked 90 days later in September 2008 for nonpayment of the Annual Fee:

- Jeffrey Barnes (#9609)
- William Barney (#9487)
- Philippe Duibreuilh (#5529) [was on Inactive Status]
- Gary Jaworski (#2072)
- Lance LaFave (#8174)
- Warren Leuteritz (#2823)
- David Stoner (#1169)

G. LSP Whose License was Reinstated after License Suspension. Mr. Fierce reported that the license of the following LSP was reinstated on Jan. 7, 2009, after a 6-month suspension:

- Kevin Sheehan (#4813)

H. Total Number of Active and Inactive LSPs. Mr. Fierce reported that the total number of Active LSPs as of the date of this meeting was 546. In addition, 5 LSPs remain on Inactive Status.

I. Revisions to Application Forms. Summarizing a memo he had written for the Board, Mr. Fierce explained that, currently, the Board's Application Forms are posted on the Board's website, and they are downloaded by nearly all applicants. But the forms were designed years ago and are not set up as electronic forms. They work well if an applicant fills them in with a typewriter, but no one does that any longer, Mr. Fierce said. After downloading, the forms currently appear as standard Word documents with none of the features of electronic forms, i.e., there are no text boxes, no check boxes, etc. Thus, while applicants can fill them in electronically after downloading, it is a nuisance to do so. For example, when one encounters a solid line on which information is to be typed, the line itself advances when one attempts to place text on that line. To eliminate these inconveniences, all commonly used word processing software now contain tools for creating forms that are easily filled out electronically. Mr. Fierce reported that the staff is currently in the process of converting all the Application Forms, including the Reference Form, into Microsoft Word electronic forms.

In conjunction with this effort, Mr. Fierce said, the staff has found and corrected a few typos, edited a few sentences for improved clarity, and reformatted a few sections.

The staff has also made some edits and reformatting changes to the Application Instructions. Most edits were made to clarify that the Application Forms are intended to be filled out electronically and to provide instruction on how to fill out each

section. Mr. Fierce said he did not think the Board needed to review these minor changes to the Application Forms and Instructions, and the Board concurred.

Ms. Latowsky suggested that the revisions to the Forms and Instructions include an instruction to applicants to prepare their Applications using no less than 11-point type.

Mr. Fierce said that he and Mr. Quinlan have also reviewed each of the Forms in the Application to see whether any improvements could be made to the questions applicants are asked to answer. Upon conducting this review, they agreed that by making certain changes to these questions, the Application Forms could elicit more useful and/or specific information about the applicant. As a result of this exercise, they have drafted what they believe is an improved set of questions for Form 2, Form 3, and the Reference Form. Because these could be viewed as substantive changes, Mr. Fierce requested that the Board review and approve them. A copy of these draft questions was included in the Board members' Packets.

The Board members agreed that the best method to review the proposed, revised questions would be to set up an Applications Subcommittee, which would be able to conduct a more thorough and careful review of the proposed changes than the Board had time to do at this meeting. The members of the subcommittee were then selected:

Christophe Henry (Chair)
Gretchen Latowsky
Debra Stake

The Board directed Mr. Fierce to send the draft questions to each Board member electronically. It was agreed that each member has until the end of February to review the draft questions and send in comments and/or a redlined version for the Subcommittee's consideration.

J. LSPA Interest in Sponsoring a Seminar for Those Interested in Becoming LSPs.

Mr. Fierce reported that the LSP Association (LSPA) has informed him that it is interested in conducting a training or seminar for prospective applicants on how to obtain the kind of professional experience the Board requires and on filling out the Application Forms. He said that the LSPA has requested input from the LSP Board staff on the design and presentation of the seminar. Mr. Fierce said that he had advised the LSPA that the Application Forms and Instructions are currently being revised and reformatted for electronic completion, and the LSPA agreed that it would be preferable to conduct this seminar after the Board's revised Application Forms had been released.

Some Board members expressed reservations about the need for such a seminar and about having staff participate in it. Mr. Fierce said that he had hoped that Wes Stimpson or someone else from the LSPA would be present at this meeting to explain

the Association's view of the need for this training. He suggested that a representative from the LSPA be invited to attend the next meeting to answer the Board's questions and explain why it believes such a seminar is needed and would be worth having staff spend time on it. The members agreed with this suggestion.

K. Need for Amendment to 309 CMR re: Definition of Accredited Educational Institutions. Summarizing another memo he had written for the Board members, Mr. Fierce explained that the Board's regulations at 309 CMR 3.02(1) require that an applicant using the Standard Track have a degree in an Appendix A field "from a recognized educational institution." In Section 2.02, the "Definitions" section of the regulations, "recognized educational institution" is defined as *"an institution which is accredited by a regional board or association of institutions of higher education approved by the **Council On Post-Secondary Accreditation** or which is chartered to grant degrees by the state in which it is located."* (Emphasis supplied.)

Mr. Fierce said that he had learned recently that the Council On Post-Secondary Accreditation (COPA) dissolved almost 15 years ago, but the Board has not amended its regulations.

Mr. Fierce said that the purpose of COPA was to "recognize" accrediting bodies that accredited educational institutions that demonstrated academic quality. There are no laws or regulations governing accrediting bodies; anyone may form one; and any educational institution, even one of substandard quality, can always find some accrediting body to accredit it for a fee. Thus, being "accredited" per se means little or nothing. What meant something useful to prospective students and other observers was being accredited by a COPA-recognized accrediting body.

Since COPA's dissolution, Mr. Fierce said, two well-recognized organizations have been performing the "recognition" function previously performed by COPA:

- Council for Higher Education Accreditation (CHEA), and
- U.S. Department of Education (USDE).

CHEA is a private association of 3,000 degree-granting colleges and universities. USDE got involved in recognizing accrediting organizations because of its interest in granting federal student aid and financial assistance only to educational institutions that provide a quality postsecondary education.

Mr. Fierce explained that the factors USDE uses to evaluate accrediting bodies are similar to but differ somewhat from the factors CHEA uses. He noted that a list of accrediting organizations recognized by CHEA and/or USDE was in the Board members' Packets. This list was downloaded from the CHEA website (http://www.chea.org/pdf/CHEA_USDE_AllAccred.pdf).

As reflected on this list, there are two basic types of educational accreditation, one generally identified as “institutional” and one referred to as “specialized” or “programmatic.” Institutional accreditation normally applies to an entire institution. Specialized or programmatic accreditation normally applies to programs, departments, or schools that are parts of an institution.

The LSP Board’s existing regulations limit the accrediting organizations to a subcategory of the “institutional” accrediting bodies. According to the Board’s definition of “recognized educational institution,” an applicant’s degree must be from an institution of higher education that is accredited by “*a **regional** board or association of institutions of higher education approved by [the now defunct COPA].*” Mr. Fierce noted that on the list in members’ Packets, the “regional” accrediting organizations recognized by CHEA and USDE are listed at the top of Page 1.

The Board’s current regulation also allows degrees from an educational institution that is “*chartered to grant degrees by the state in which it is located.*” Mr. Fierce stated that he believes such institutions are all recognized by either CHEA or USDE. For example, all Massachusetts chartered state colleges and universities are accredited by a CHEA-recognized regional accrediting organization. He said he believes this is true for other states as well.

At the conclusion of his presentation, Mr. Fierce recommended that within the next year the Board amend its regulations to delete reference to COPA and to require instead that applicants have a qualifying degree from a college or university accredited by a regional board or association recognized by either CHEA or USDE. He also recommended deleting reference to the other option of being “chartered” by a state.

He also recommended that the Board consider amending its regulations to allow qualifying degrees from institutions offering degrees through a distance education method, including online learning, that are accredited by the Distance Education and Training Council (DETC). DETC is a national (not a “regional”), institutional accrediting body recognized by both CHEA and USDE. It is also the only organization recognized by CHEA and USDE that focuses on accrediting distance and online education programs. Mr. Fierce said that, as we approach the end of the first decade of the 21st century, it is likely that the Board will soon have an applicant with an online degree in an Appendix A field, and it would be helpful to have some objective basis for assessing the quality of the institutions offering such degrees. Requiring DETC certification would provide that basis, he said.

Thereafter, the Board members briefly discussed these two recommendations for amending the Board’s regulations. Given the lateness of the hour, and the fact that the Board is not intending to propose a package of regulation amendments in the near

future, a **motion was made, seconded, and approved unanimously to table further discussion of these recommendations to a future meeting.**

9. **Revised Records Retention Schedule.** Ms. Commerford requested, and the Board concurred, that this item be tabled due to the lateness of the hour.

10. **Examinations:**

- A. **New Licensees.** The staff reported that the following approved applicants passed the licensing exam and are now LSPs:

	<u>Exam Date</u>
• Craig R. Ellis (#6696)	11/13/08
• David P. Knox (#1540)	11/13/08
• Christopher P. Parent (#7689)	11/13/08
• Jarrod P. Yoder (#8188)	12/11/08

- B. **Next LSP Exam.** The staff reported that the next exam administration is scheduled for February 4, 2009.

- C. **Status Report – PC-based Administration.** Mr. Fierce reported that on each of the previous two exam dates the exams were administered electronically. Examinees were seated at PCs in MassDEP's training room. These were the first two times the exam was administered using the Board's new testing software. A few glitches were encountered and were resolved on the spot. One software glitch remains, which affected a couple of the examinees. Chris Borges from BWSC, who is providing technical support on this project, is contacting the software developer about this problem.

10. **Continuing Education Committee Report:**

- A. **Course and Conference Approval Requests.** Mr. Henry reported that the Committee had met earlier in the day and had the following course recommendation to present to the full Board:

Sponsors: Society for Environmental Toxicology and Chemistry (SETAC) and
Society for Risk Analysis – New England (SRA-NE)

Course Title: Nanotechnology: Environmental Implications and Applications

Credits Requested: 6 Technical credits

Committee Recommendation: **Approve.**

A motion was made and seconded to accept the Committee's recommendation. The motion was approved unanimously.

- B. **Other Business.** The Committee had no other business to report.

11. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the Professional Conduct Committee meeting held earlier in the day, the Board agreed to forego a Committee report.
12. **Personnel, Budget, and Fees:** Mr. Fierce stated that there were no items of interest to report this month. However, in late January the Governor is expected to submit his budget recommendations for FY-2010.
13. **Status of Board Member Replacements by Governor:** Ms. Commerford stated that the Governor's office is reviewing a recommended candidate who would replace Ms. Latowsky.
14. **Other Business:**
 - A. **Next Article for LSPA News.** The Board and the staff discussed possible topics for an article in the next LSPA newsletter. The next deadline is January 30, 2009.
 - B. **Inquiry from Prospective Applicant.** Mr. Quinlan asked the Board how he should respond to a prospective applicant who had a question about the Board's interpretation of its requirement that, for a Standard Track applicant, at least three years of the applicant's Relevant Professional Experience must have occurred within five years prior to submission of the application. The Board members agreed that, before answering this question, it would be best for this prospective applicant to apply, thereby providing the Board with all the relevant information needed to answer the question.
15. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on March 13, 2009. Ms. Stake agreed to check whether the meeting could be held at Arcadis in Chelmsford. The following meeting will be held on April 14, 2009, at a location to be determined.
16. **Adjournment:** The meeting was adjourned at 3:53 p.m.